

1 TITLE V TASK FORCE PUBLIC MEETING
2 CHICAGO, ILLINOIS

3 TRANSCRIPT OF PROCEEDINGS had in the
4 above-entitled cause on the 15th day of September, A.D.
5 2004, at 8:00 a.m.

6 US. ENVIRONMENTAL PROTECTION AGENCY

7 -Office of Air Quality Planning and Standards
8 Bill Harnett - Chair
9 Steve Hitte
10 Michael Ling
11 Ray Vogel
12 -Office of Enforcement and Compliance Assurance
13 Carol Holmes
14 -Office of General Counsel
15 Padmini Singh
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17 Callie Videtich

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20 -Lauren Freeman, Utility Air Regulatory Group
21 -Steve Hagle, Texas Commission on
22 Environmental Quality
23 -John Higgins, New York Department of
24 Environmental Conservation
25 -Shelley Kaderly, Nebraska Department of
26 Environmental Quality
27 -Marcie Keever, Our Children's Earth
28 -Bob Morehouse, ExxonMobil
29 -Verena Owen, Lake County Conservation Alliance
30 -Bob Palzer, Sierra Club
31 -Bernie Paul, Eli Lilly
32 -Keri Powell, New York Public Interest
33 Research Group
34 -Adan Schwartz, Bay Area Air Quality
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36 -Don van der Vaart, North Carolina Department
37 of Environment and Natural Resources
38 -Richard Van Frank, Improving Kids' Environment
39 -David Golden, Eastman Chemical
40 -Kelly Haragan, Environmental Integrity Project
41 -Mike Wood, Weyerhaeuser

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2 -Shannon Cox

3 REPORTED BY:
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1 MR. HARNETT: We're going to go ahead and get
2 started here.

3 I'd like to thank again everybody for coming
4 today. I especially again want to thank the task force
5 members in agreeing to participate in volunteering for
6 this project. Just a few words of explanation to the
7 rest.

8 The Clean Air Act Advisory Committee, which is
9 a committee set up of outside parties which provides
10 advice to EPA on the Clean Air Act programs and how to
11 implement them, created this task force to look at the
12 implementation of the Title V program or the operating
13 permit program under the Clean Air Act.

14 They felt, and we agree, that it was a good
15 time to take a look at how has this program gone now
16 that it's had over 13 years of operation out at the
17 state level. How has -- how are the -- we are close to
18 issuance of all the initial permits; and it was felt
19 now is a good time to see how is this program working
20 for everybody.

21 They tasked the task force with answering two
22 particular questions; which is, how well is the program
23 performing, and what elements of the program are
24 working well or poorly. And they've asked them to

1 prepare a report for the committee that answers those
2 questions and additional information items.

3 And so what they did suggest too is that the
4 report should reflect the perspectives of all the

5 stakeholder groups that are represented on the task
6 force as well as to the maximum extent possible the
7 real-world experience both of the stakeholders that are
8 part of the task force as well as those that speak to
9 us in the course of doing these public meetings; and
10 also that it describe information about how things are
11 working well and leading to beneficial outcomes as well
12 as any reported problems with the programs.

13 And then there can also be in that final report
14 recommendations for improving it based on the data
15 collection that goes on here.

16 We have held one public meeting previously in
17 Washington, D.C. This is the second one. There was an
18 all-day session yesterday. We will hold one more in
19 San Francisco; and then we will hold additional more, I
20 would say, electronic kinds of meetings using the
21 telephone to allow people who can't afford to travel to
22 participate and give us direct, sort of, verbal
23 testimony.

24 And then we'll also -- we also have opened up a

1 public record that people can submit comments into.
2 And that will remain open till next March so people can
3 be providing us more detailed comments or separately.

4 Today we will be here from 8:00 a.m. until
5 noon, and we will finish no later than noon today.

6 We have some speakers who've signed up.

7 From our perspective we think at EPA this is a
8 very important step that we need to go through in terms
9 of trying to understand what's actually happening out
10 there and whether or not -- and to the degree speakers
11 can address this as they talk -- whether or not the
12 issues, the things that are working well and the things
13 that may not be working well, are they things
14 associated with the rules that EPA has written based on
15 the Clean Air Act, or are they things associated with
16 the implementation of the program by individual
17 permitting authorities?

18 So the more clarity we could have on the
19 difference between the two, the more it will be helpful
20 to try and understand how to address things going
21 forward.

22 And finally, what I'd like to do now is just
23 give an opportunity for the task force members to
24 introduce themselves and who they represent.

1 I am Bill Hartnett, I'm with the U.S. EPA's
2 Office of Air and Radiation.

3 MS. FREEMAN: Lauren Freeman from the law firm of
4 Hunton & Williams in Washington, D.C., and I'm here
5 representing the Utility Regulatory Group.

6 MR. GOLDEN: David Golden with Eastman Chemical
7 Company.

8 MR. PALZER: Bob Palzer representing the Sierra
9 Club.

10 MR. HAGLE: I'm Steve Hagle with the Texas
11 Commission on Environmental Quality.

12 MS. SINGH: Padmini Singh with the Office of
13 General Counsel at U.S. EPA.

14 MS. HARAGAN: Kelly Haragan with the Environmental
15 Integrity Project.

16 MR. HIGGINS: John Higgins from the New York State
17 Environmental Conservation Department.

18 MR. HITTE: I'm Steve Hitte, U.S. EPA.

19 MS. KADERLY:
20 Shelley Kaderly with Nebraska Department of
21 Environmental Quality.

22 MS. KEEVER: Marcie Kever with Our Children's
23 Earth.

24 MR. LING: Michael Ling with U.S. EPA.

1 MR. MOREHOUSE: Bob Morehouse, ExxonMobil.

2 MS. OWEN: Verena Owen, Conservation Alliance of
3 Illinois.

4 MR. FITZSIMONS: Graham Fitzsimons with EC/R,
5 Incorporated. We're an EPA support contractor.

6 MR. VAN DER VAART: Don van der Vaart, Division of
7 Air Quality.

8 MR. VAN FRANK: Richard Van Frank with Improving
9 Kids Environment in Indianapolis, Indiana.

10 MS. VIDETICH: Callie Videtich, EPA Region 8 in
11 Denver.

12 MR. WOOD: Mike Wood, Weyerhaeuser Company.

13 MR. VOGEL: Ray Vogel with U.S. EPA.

14 MS. HOLMES: Carol Holmes with the Air Enforcement
15 Division of U.S. EPA.

16 MS. BROOME: Shannon Broome with the Air Permitting
17 Forum; and I'm out of California.

18 MR. HARNETT: And one last bit of housekeeping for
19 the purposes of our speakers. We are keeping both a --
20 we are taping the session, and we have a court reporter
21 who's also taking it down. And we will be providing a
22 transcript of all of this on our Web site after the
23 meeting.

24 At this time I'd like to welcome the first

1 speaker this morning, Bob Hermanson of the American
2 Chemistry Council.

3 If you could join us at the table, actually,
4 we'll manage your slides for you.

5 Do you have a presentation?

6 BOB HERMANSON: No, I actually have no written
7 materials; and I'll explain why in just a few moments.

8 MR. HARNETT: That's fine. We actually prefer you
9 to just sit with us, and then you'll have 15 minutes
10 for your talk, I'll give you a two-minute warning; and
11 then we will have a period of questioning after you're
12 done.

13 Thank you.

14 BOB HERMANSON: Thank you. As Bill said, my name
15 is Bob Hermanson; I'm with BP America here in
16 Chicago -- actually, in the western suburbs. But I'm
17 here today representing the American Chemistry Council.

18 Pardon me. The American Chemistry Council, for
19 those of you who don't know, is the trade association
20 of the leading companies and the business -- what we
21 call the business of chemistry and transformation of
22 raw materials into useful consumer industrial and
23 commercial products.

24 It's a \$460 billion enterprise across the

1 United States and a key element of the U.S. economy and
2 accounts -- more importantly, accounts for one dollar
3 out of every ten of U.S. exports.

4 And finally, it's the largest single sector
5 R and D participant in the entire United States
6 economy.

7 Pardon me: The kids went back to school last
8 week, and I got the first cold.

9 ACC members include -- there's 136 of them.
10 They include many of the larger and well-known
11 companies and many more smaller and less well-known
12 companies. ACC, the trade association, catalyzes
13 industry improvement of environmental performance
14 through such programs as responsible care and the --
15 the other programs they have.

16 Now, the members of ACC, Chemistry Council, are
17 extremely concerned about Title V. Most of our members
18 have in the past dealt with Title V programs and
19 continue to do so. And the association, the council
20 itself, both as ACC and as its former incarnation as
21 the Chemical Manufacturer's Association, has been a
22 participant in the regulatory process both in the
23 national and in the state levels.

24 Particular concern of the ACC membership is

1 permit flexibility. Flexibility is critical to
2 members' abilities to adjust to business cycles and to
3 take advantage of new product opportunities.

4 Am I in the wrong spot here?

5 ADAN SCHWARTZ: You can sit.

6 BOB HERMANSON: What I wanted to tell you today,
7 the reason my presentation will be so short and there's
8 actually no written materials is that ACC has just
9 begun a process of gathering information from the
10 member companies. And this will take some time. It's
11 not simply a matter of throwing some questions down on
12 a piece of paper, collecting the answers and totaling
13 up the yeses and nos, and giving you a 21 percent this
14 and, you know, 15 percent that kind of thing.

15 So we're sort of feeling our way along and
16 trying to discover what is the most -- what are the
17 most important issues and how to elicit useful
18 information.

19 Now, we expect that that will take some time;
20 but at the end of our effort we will compile and submit
21 written comments to you, and perhaps even speak at one
22 of your public hearings. But we expect it will take us
23 a couple months to get somewhere useable on that.

24 But what I did want to give you today was give

1 you kind of a preliminary look at some of the issues
2 which have popped out from the first round of
3 questioning.

4 So what are some of our initial concerns?

5 Well, you've probably heard a lot of these
6 before, but let me reiterate what the members of ACC
7 think.

8 First of all, the Title V process continues to
9 be costly. Second, the issuance of permits and the
10 issuance of permit modifications takes way too much
11 time. And third, the permits often include extra terms
12 and may occasionally delete otherwise allowable
13 regulatory options such as additional monitoring
14 requirements and additional compliance options.

15 All these things add up to matters of
16 significant concern.

17 Let me cycle around to cost first.

18 The first thing members report, at least in the
19 preliminary round, is that the costs to develop -- the
20 direct costs to develop the permits from inception all
21 the way through the issuance of the final permit, these
22 costs range from about \$20,000 to we have a reported
23 high of \$300,000. This includes both internal company
24 costs and external contractor costs but does not

1 include the permit fees associated with the permit.

2 And we note that the EPA's original estimate in
3 the final rule in '92 called for an average cost of
4 about \$15,000 per permit.

5 Second, on time. Some members report that the
6 initial permit took well over five years to -- to be
7 issued. And in fact, some permits have not -- some
8 final permits have not yet been issued.

9 Personally from my company I have five plants
10 that I'm responsible for; only one of them has an
11 actual final permit. This is going on eight years
12 after the permit applications were brought in.

13 I have two in sort of the final stages of
14 development of a permit and two more where the permit
15 is kind of out somewhere in the future.

16 As far as permit modifications are concerned,
17 it's not unusual for members to report a few months to
18 a year for a minor modification to be issued and a few
19 months to several years for a major modification to be
20 issued.

21 And we find that the state agencies are often
22 bunching smaller permit modification applications for
23 issuance all at once, issuance and processing all at
24 once.

1 Now, as I mentioned to you earlier, time and
2 flexibility is important to us. If something takes
3 five years, you're talking the better part of two
4 business cycles for the chemistry industry.

5 It's important for us to be able to respond to
6 changes in the business climate a lot quicker than
7 every five years.

8 Moving on to permit terms, the biggest concern
9 reported to date is that additional nonregulatory
10 monitoring terms have been added to the final permit.
11 The one that comes up most often is opacity. And
12 another one that comes up is that permits are often
13 adding or substituting perimetric monitoring terms for
14 direct monitoring terms.

15 Another thing about permit terms is that the
16 permit authority often commits errors in restating
17 regulatory obligations as permit terms.

18 Now, some of this is due to paraphrasing of
19 this underlying standards, and some of this seems to be
20 merely a function of the state use of boilerplate
21 terminology.

22 And then another thing, as I mentioned earlier,
23 the loss of regulatory options in the final permit is
24 also a matter of concern. Sometimes an underlying

1 standard will offer two, three or four compliance
2 options to be electable at any time or to be switchable
3 at any time, but the final permit is issued with only
4 one of those in there requiring a permit modification
5 in order to be changed to the other regulatory option.

6 Those were the major concerns of the members
7 that have surfaced to date. And a couple other points
8 that people have tried to make, first is that there's
9 significant differences in the process and the
10 paperwork requirement across the various permitting
11 jurisdictions.

12 Now, that's not a concern to the individual
13 relationship between the facility and the permit
14 authority, but it is from perspective of companywide
15 economies of scale; and it makes them highly
16 infeasible.

17 The second thing is that these long delays that
18 we've experienced in issuing permits have led to an
19 interesting phenomenon within the companies and within
20 the contractors we've hired, and that's that the people
21 who have worked on the original permits have long since
22 disappeared into other jobs.

23 If we had to do it all over again today, or if
24 we just had to go through a renewal process, we would

1 have to retrain everybody to come up with these terms.

2 Now, maybe that won't be a problem in the
3 future. Maybe with a more rapid turnover cycle it will
4 be better for us.

5 But for now we're kind of -- we've kind of lost
6 all the expertise we developed in the mid '90s in
7 developing the applications.

8 Now, I did want to end my comments with two
9 thoughts. One is that maybe there is a better way --
10 and we're trying to noodle around with some ideas on
11 that to see if we couldn't come up with a better way,
12 you know, hindsight being 20/20 and all -- and the
13 second is there are some benefits we've derived
14 directly from going through this process.

15 In terms of a better way, what we've seen, what
16 members have seen from the process to date suggest that
17 perhaps a better way to approach this would be to have
18 each of the individual sources compile a list of his or
19 her -- his regulatory obligations -- and this might
20 have cost a lot less money and been a lot more accurate
21 than having the states do it themselves -- then in the
22 future compliance certification could have been done
23 against this list rather than against a permit and we
24 could have bypassed the step of negotiating permit

1 terms and compliance options.

2 I don't know where this is going to lead us;
3 we're going to try and think about this some more and
4 see if we can't come up with a more firm proposal. But
5 the idea of having the permittee do more of the work is
6 sort of central to our idea.

7 And as I suggested, there are some benefits we
8 have seen from participating in this process. One is
9 the obvious: We've taken a hard look at all of our
10 regulatory obligations, we put them all down on one
11 piece of paper -- well, one stack of paper. And so we
12 have them all in one location at least.

13 There are also considerable synergies in the
14 Title V process with some of the other initiatives
15 we've had in the past few years like ISO 14001
16 certifications and the more recent Sarbanes-Oxley
17 management assurance process. So having all this stuff
18 in one place simplifies those tasks.

19 And then finally, the cost pressures the
20 business has been in under the last several years, what
21 with rising gas prices and the like, have encouraged us
22 to develop creative information technology solution to
23 our information management problems.

24 We now have computer programs that do a lot of

1 this stuff and spreadsheets and the like. The only
2 problem we have there of course is over the course of
3 five or seven years you've gone on to a new generation
4 of rating systems and hardware; but that's kind of a
5 problem we think we might be able to see our way
6 around.

7 That's all I have for you today. As I said,
8 when we finish our process of soliciting information
9 from the members, we will compile written comments and
10 send them to you.

11 I don't know when this will be, but I
12 anticipate it will be a couple, few months from now;
13 well before the end of your process.

14 Thank you for your time and attention. And
15 I'll entertain any questions you have.

16 MR. HARNETT: Thank you. And Don van der Vaart?

17 MR. VAN DER VAART: Thanks a lot for your comments.

18 There's one thing that I think is -- we've
19 heard a lot -- I've heard a lot -- is the -- the
20 relationship between the construction requirements and
21 the -- getting on top of the operating permit. We've
22 had people complain that the Title V permit program
23 wasn't meant to be a preconstruction program.

24 And so they've pushed, and in our state -- and

1 I think in some other states -- they have used the
2 state construction process to allow certain
3 modifications to go forward with a requirement that the
4 Title V permit gets amended downstream.

5 You -- you pointed out that, you know, you were
6 having these long delays for projects.

7 Have you not seen any states give you that --
8 at least in some occasions -- options to get a
9 construction permit, sometimes even an operating permit
10 before the folding it into the Title V; or has it
11 always been you got to have your Title V permit
12 modified before you can even construct?

13 BOB HERMANSON: My understanding of that issue --
14 again, we're talking about members and pretty much all
15 of the permitted jurisdictions across the
16 United States -- that we have not had a significant
17 problem along the lines you've indicated; that in fact,
18 most of the members are applying for preconstruction
19 permits with the expectation that those will be rolled
20 into the Title V permit as amendments or at -- in the
21 original issuance.

22 So to date, again, from what I have seen in the
23 member input so far, that has not been a problem.

24 MR. VAN DER VAART: I mean once you get your

1 Title V.

2 BOB HERMANSON: Well, that's another question. The
3 members' expectation was that the process associated
4 with preconstruction permits was going to be
5 essentially equivalent to that required for Title V
6 permit issuance. So that once a preconstruction permit
7 was issued, it could be incorporated into the Title V
8 permit as, frankly, an administrative-type amendment,
9 or at very worst a minor-type amendment, both of which
10 would not take any kind of time at all to undertake and
11 complete.

12 But in fact, they are showing some delay in the
13 states for issuances of even of minor permit amendment.

14 MR. VAN DER VAART: What I'm saying is, though, in
15 other words, they're saying you can't go ahead until
16 you get your Title V -- until you have gone through the
17 Part 70 process, is that --

18 BOB HERMANSON: I have no information on that
19 specifically. That's a good thing to note, though.

20 MR. HARNETT: Shelley Kaderly?

21 MS. KADERLY: We've heard several folks bring up
22 the issue of turnover at state agencies as being an
23 issue of concern. And I was wondering -- well, quite
24 frankly, our agency does experience some turnover; but

1 we also see turnover at the facilities that we go out
2 and inspect. And sometimes every time we go out
3 there's a new person that we're dealing with and
4 there's an education process there that we have to go
5 through with facilities.

6 I'm wondering what the answer is, what are some
7 recommendations for dealing with the staff turnover
8 issue, taking into consideration that it's not real
9 popular to increase government, that it's difficult to
10 increase salaries at government agencies and so forth.

11 What -- what recommendations can you offer to
12 state and local permitting authorities to deal with
13 this turnover issue?

14 BOB HERMANSON: I think I mentioned that one of the
15 problems we've experienced is related to that in that
16 the loss of expertise. I am hoping that as the process
17 becomes more institutionalized and faster, -- frankly,
18 faster -- that we will not lose the expertise on our
19 side of the equation as -- as thoroughly as we seem to
20 have done so far.

21 Now, I don't know if that answers your question
22 or not.

23 But I expect that we might find a more -- a
24 continuation of a more reasonable level of expertise in

1 our -- on our side of the fence if this process were to
2 be a little more timely.

3 Other than that I'm afraid I don't know what
4 the answer to that would be.

5 MR. HARNETT: Michael Ling?

6 MR. LING: Thanks. I appreciate the preview of
7 your testimony and look forward to hearing more
8 information from you when you come to the next meeting
9 or file your comments in writing.

10 And along those lines, you talked about one
11 year for a minor mod, and sometimes several years for a
12 major mod.

13 I would say that's probably something that's
14 not working well. And what I would like to try to
15 understand when you provide the more detailed
16 information is maybe just pick a couple of those where
17 it's taken several years to process a minor mod and
18 help the task force understand where the delays are
19 coming so that we can break it into parts and try to
20 figure out how those delays can be addressed.

21 BOB HERMANSON: I'll communicate that request
22 along. I think that's a reasonable thing to look into.

23 MR. HARNETT: Richard van Frank?

24 MR. VAN FRANK: I believe you mentioned that you --

1 that you thought the facility should be able to compile
2 essentially their own list of regulatory requirements
3 and base a permit on that.

4 How would you propose that that approach be
5 validated?

6 Because some people are going to cheat; and
7 there has to be some mechanism there to validate what
8 has -- what the industry -- what the particular
9 facility has -- has developed to make sure it's
10 correct.

11 BOB HERMANSON: Good question. I don't know how it
12 would work from the other side. What I suggested was
13 that I think the members feel there would have been
14 a -- would have been a faster process with fewer
15 substantive errors in permit terms had they done it
16 themselves.

17 Now, the verification of course is an issue,
18 you know, cross-checking the term -- the compiled list
19 of requirements against the regulation as an issue I
20 guess for states and local permitting authorities to
21 deal with.

22 Pardon me.

23 I merely suggested that the process as we
24 experienced it has led to considerable number of errors

1 and that that might have been minimized by us doing the
2 work in the first place.

3 MR. HARNETT: Mike wood?

4 MR. WOOD: Thanks for coming today. I think you
5 represented a constituency that brings a unique
6 perspective to this group.

7 But you mentioned the cost of Title V
8 permitting. And I wonder if you have any idea how that
9 cost might be broken out, how much might be attributed
10 to determining applicable requirements as opposed to
11 determining compliance.

12 I know my company spent a lot of money once we
13 determined the applicable requirements, we then spent a
14 lot of money determining whether we were in compliance.

15 I was just curious how much --

16 BOB HERMANSON: I'm sorry; I have no information on
17 that breakout.

18 MR. WOOD: Is that something you can --

19 BOB HERMANSON: I can communicate it along, yeah.

20 MR. WOOD: Thanks.

21 MR. HARNETT: John Higgins?

22 Bob Morehouse.

23 MR. MOREHOUSE: Let me add one or two comments
24 since we're -- I'm not really hard -- let me add one or

1 two comments to what Bob was saying since we're a
2 member of the chemistry council and I provided some
3 input.

4 On the question that Richard had about
5 applicable requirements and having the company prepare
6 them, the issue there is if a company put together that
7 entire list of requirements, it would still go through
8 the regular Title V process. They'd still work with
9 the permit engineer. There'd still be the
10 public-participation process.

11 What it would do is -- and the desire would be
12 probably to do that with sort of a standard template
13 provided by, you know, an agency.

14 And what that avoids is the ongoing issue we
15 have where there's a permit engineer -- we talked about
16 yesterday -- hasn't visited a site, writes a number
17 of -- makes some translations, makes them long -- we
18 spend an inordinate amount of time correcting things
19 that we actually thought we submitted them correctly in
20 the first place.

21 There still is the give and take with the
22 permit engineer on applicable requirements and all
23 that, but it would cut out an awful lot of the sort of
24 customized standard terms and conditions which vary

1 significantly from state to state, and would make it a
2 more uniform program.

3 So that was what some of the council members
4 were thinking with that idea as an approach to take.

5 MR. HARNETT: Ray Vogel?

6 MR. VOGEL: I'd like to follow up on the cost
7 figures. I think you indicated that the cost for your
8 member companies compiling and the application, all the
9 policy application, internal as well as your external
10 contractors, ranged about from 20,000 to 300,000; and
11 then -- and cited the average figure that EPA had
12 developed back in the '92 rule of 15,000.

13 Just wondering in comparing those two numbers
14 is -- you know, the 15,000 was of course the average,
15 national average.

16 Do you think your member companies are larger
17 than or -- than the national average, or about the same
18 as the national average?

19 BOB HERMANSON: You know, I realize that range of
20 cost I presented is not a particularly useful number,
21 and that's why we haven't gone into it in any more
22 detail. The number presented in the EPA preamble to
23 the final rule in '92 did talk about aggregated costs
24 across 34,000 different sources.

1 So yeah, presenting comparison of our range
2 with the overall average is -- is not particularly
3 useful at this point. On the other hand, I just wanted
4 to point out that some of the costs can go way higher
5 than what the -- what we originally anticipated as --
6 as the cost of this program. And I think members
7 are -- are expressing some dismay at -- at the amount
8 of money that they've had to spend on this.

9 I will also point out that a little later in
10 the preamble EPA points out that to the extent they may
11 have underestimated things, the cost could range up to
12 a billion dollars higher. So that sort of blows
13 that -- that \$526 million number they had right out of
14 the water.

15 We will probably be able to develop more useful
16 cost-type information over the next several months as
17 we -- as we look at it a little bit harder. Right now
18 we just -- like I say, we're just sort of asking people
19 their impressions and an idea. And the idea is to try
20 to be able to ask more probing and useful questions as
21 the process goes on.

22 MR. HARNETT: Shelley Kaderly.

23 MS. KADERLY: A question on these errors and stuff
24 that you see. Something that would be helpful too for

1 me to understand is whether these errors ended up in
2 the final permit or whether it was something that was
3 discovered during the -- the draft or proposal stage
4 and got corrected during the -- during the public
5 comment period.

6 Because it -- that would be useful to know is
7 whether they were first identified in the public
8 comment period and then still hadn't gotten taken care
9 of.

10 BOB HERMANSON: We don't -- I don't have specific
11 information on that, but my recollection of the process
12 is -- is -- is that it was discovered before the final
13 permit -- typically errors are discovered before the
14 final permit is issued.

15 MS. KADERLY: I think having some information on
16 some examples of that would be -- would be helpful.
17 And if there are any responses to those perceived
18 errors from the permitting authorities.

19 MR. HARNETT: John Higgins?

20 MR. HIGGINS: Good morning.

21 I'd be curious to hear your members' assessment
22 of how common it was to find instances of inadvertent
23 noncompliance to -- maybe in requirements they didn't
24 realize existed before they went through the Title V

1 examination process to produce their initial
2 applications.

3 I know in New York we found a reasonable amount
4 of -- of the applicants had found instances where they
5 just hadn't realized and we hadn't realized they were
6 doing -- doing things they shouldn't have been or not
7 doing things they should have been.

8 And I'd be curious to -- to see what your
9 membership found along those lines.

10 BOB HERMANSON: I can communicate that request
11 along to the members.

12 MR. HARNETT: Steve Hitte?

13 MR. HITTE: Good morning.

14 I'd like to sort of echo what I've heard from
15 Michael Ling and Shelley when you provide additional
16 information about providing examples. I definitely got
17 this feeling your membership covers many, many -- I
18 don't know if it's tens, hundreds or thousands of Title
19 V sources, but it sounds like the range varies from
20 they don't have the permit to they have their permit.

21 So when you provide your information, be clear
22 whether that experience is based on the issued permit
23 or the source that hasn't gotten their permit yet.
24 That would be extremely I think helpful to us.

1 BOB HERMANSON: Again, I can communicate that along
2 to the members. The -- you are correct; we range from
3 simple little -- I mean, literally, you know,
4 family-owned chemical companies all the way up to the
5 -- the Exxon, Mobils and BPs and Dows. And the range
6 of operations, the scope, the breadth of the scope
7 is -- is breath-taking; little operations to
8 multi-billion-dollar physical plants.

9 So you're looking for more concrete examples; I
10 can communicate that along.

11 MR. HARNETT: Shannon Broome?

12 MS. BROOME: Good morning, and thanks for coming
13 today.

14 Not to add one more thing to the request of
15 stuff to provide, but after everybody spoke yesterday,
16 we were talking a lot about MACT. And one of the big
17 questions was trying to get a handle on which types of
18 compliance options exist in MACTs that people want to
19 preserve that flexibility and need the -- the quick
20 timing for.

21 And if you'd just -- not put a lot of work,
22 just something -- one or two simple examples from MACT
23 standards since you guys have the absolute most
24 experience with MACT standards, with compliance

1 options; saying this is the type of compliance options
2 that exist, and they're really important for us to
3 preserve, and why the -- you know, that there's a quick
4 turn-around, or there isn't, or what -- you know,
5 whatever it is.

6 But you mentioned the need to preserve the
7 flexibility of compliance options. And I look at who
8 has the most experience in the country with
9 implementing a MACT standard, and it's -- it's you
10 guys.

11 BOB HERMANSON: You're right.

12 SHANNON BROOME: We would love that. Thanks.

13 BOB HERMANSON: Yeah; the MACT reports have this
14 organic niche, the polymers and resins all the way down
15 to the OLD rule and engines and boilers and heaters;
16 are fairly complicated. Especially the recent ones, at
17 the very least, contain an option if you're in
18 compliance with another MACT rule, you don't have to
19 comply with that rule.

20 And so the permutations involved, especially
21 over time, are interesting, and the benefits are not
22 clearly known in a lot of the cases. But the potential
23 for benefit is known; and therefore the option is worth
24 preserving; at least the viewpoints of the membership.

1 But I'll communicate the desire for simple
2 examples along --

3 MS. BROOME: Or just like from a part of a MACT.
4 You don't have to give us the whole kind of options.

5 Here's one little thing that is important to
6 somebody so we can -- people just don't have a real
7 feel for it. It's --

8 BOB HERMANSON: Yeah. As far as the Title V
9 process is concerned, the terms relating to MACT in
10 permit, in final permits, have been as simple as source
11 will comply with, you know, 40 CFR 63, blah-blah-blah,
12 period, you know, to incorporation of the entire text
13 of the MACT regulation, to paraphrasing the MACT
14 regulation.

15 In some states where the program has been
16 delegated, the states have rewritten the MACT rules to
17 super -- essentially supersede the federal MACT rules,
18 so they incorporate by reference to their own rule.
19 And it's difficult to come up with a uniform assessment
20 of what's happening across all the permitting
21 jurisdictions. But there are some interesting
22 examples.

23 MR. HARNETT: Thank you very much. And good luck
24 with all your homework assignments; and we look forward

1 to seeing the results.

2 BOB HERMANSON: Thank you.

3 MR. HARNETT: And Don, if you want to move over or
4 get the card over, that would be useful.

5 Our next speaker is Ann Alexander of the
6 Illinois Attorney General's office.

7 We welcome you. You have 15 minutes for your
8 presentation, and then there will be a period of
9 questioning after.

10 I will warn you at a two-minute mark; so feel
11 free and go right ahead.

12 ANN ALEXANDER: Good morning. I would like to
13 start out by saying that the Attorney General very
14 strongly supports the Title V program in principle. We
15 believe that properly implemented it can bring the
16 compliance status of major facilities into full view
17 and facilitate their achieving compliance; and it also
18 provides an essential tool for public involvement: It
19 takes complex and disparate Clean Air Act requirements
20 and makes them accessible in one document, and requires
21 monitoring to ensure that the public is apprised of
22 compliance on an ongoing basis.

23 We think those are all extremely important
24 principles and worth defending.